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TO THE CHIEF OF LOGISTICS

1. This will acknowledge receipt of your memorandum of November 23, 1954, requesting our opinion whether customs duties on privately owned vehicles intended for official use may properly be paid by the Agency, the extent to which payable and the proper format and contents of any necessary agreements.
2. As you may know, import and export duties are generally regarded as items of personal expense not for inclusion as an incident of transportation costs. In consequence, reimbursement or direct payment of import and export duties as a personal benefit may not normally be authorized.

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4. The format and content of any agreement entered into between the Agency and the employee would almost certainly vary with the individual case. As a minimum requirement we would suggest that the determination of the authorizing official described above be endorsed by the employee in such a manner as to concur in the statements contained therein. More importantly, we suggest the employee agree that he will not sell the automobile in the country of assignment except with the permission of the Agency and, in case of sale, will remit to the Agency amounts received from the sale in excess of those which he would have received for a similar sale of the

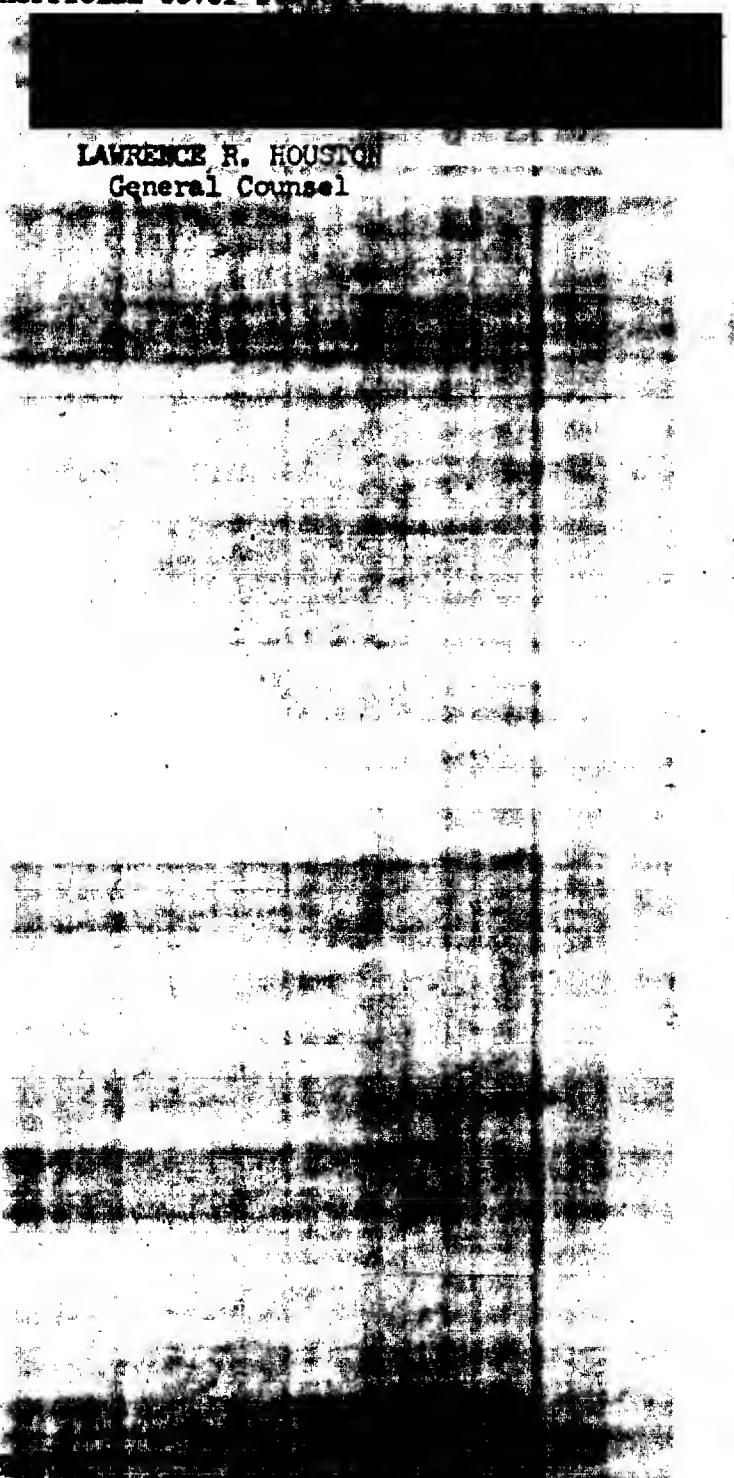
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automobile in the United States but not more than the amount paid by the Agency for customs duties and transportation from the United States. The purpose of such an agreement is to ensure that the profits of sale accruing to the employee do not include elements of profit directly related to and dependent upon the payment by the Agency of the duties necessary to bring the automobile into the country of sale. This rule would not apply in cases where, under the laws of the country concerned, employees of foreign governments are excused from payment of customs and the reason for the payment of customs is the unofficial character of the particular employee's cover. In such cases no remittance of profits to the Agency would be necessary since to require such would be in effect a penalty on a government employee by reason of his unofficial cover status.

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LAWRENCE R. HOUSTON
General Counsel



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